IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

(1) F.A.O. No.2992 of 2006

Karnail Singh.

..... Appellant

Versus

Smt.Sheela Devi and others.

..... Respondents

(2) F.A.O. No.2993 of 2006

Karnail Singh.

..... Appellant

Versus

Smt. Bakhsho Devi and others.

..... Respondents

Date of Decision: 17.10.2006.

CORAM: Hon'ble Mr.Justice Uma Nath Singh
Hon'ble Mr.Justice Mahesh Grover

....

Present: Shri C.L.Sharma, Advocate for the appellant.

....

Mahesh Grover,J.

This judgment shall dispose of the above mentioned two appeals as they arise out of a common award dated 22.11.2005 of the Motor

Accident Claims Tribunal, Hoshiarpur (hereinafter described as `the Tribunal') passed in M.A.C.T. Case Nos. 3/RBTNo.84 and 4/RBT No.85 of 28.7.2003/ 29.10.2005.

In an accident which took place on 31.5.2003, Chaman Singh, Subhash Chander and Dharminder Singh received multiple injuries. It was alleged that the motor cycle being driven by Chaman Singh had struck against the tractor trolley owned by the appellant, which was parked on the road without any parking lights or any indication suggesting the parking of the vehicle. Subhash Chander and Dharminder Singh were the pillion riders on the motor cycle. Subequently, Chaman Singh and Subhash Chander succumbed to their injuries. The Tribunal awarded a sum of Rs.3,98,000/- on account of death of Chaman Singh, while a sum of Rs.1,52,000/- was granted on account of death of Subhash Chander along with interest at the rate of 6% per annum from the date of filing of the petitions till realisation.

The appellant, who is the owner of the tractor, has disputed his liability to pay the compensation by pleading false implication and in the alternative, prayed that the deceased be held guilty of contributory negligence as the motor cycle had struck against the stationery vehicle.

We have heard the learned counsel for the appellant and have perused the impugned award which reveals that there was overwhelming evidence to prove that the tractor and the trolley were parked on the metalled portion of the road without any indication to the users of the road. There was neither any reflector nor any indicator to suggest the existence of a stationery vehicle on the road. The accident had taken place at about 10.00 P.M. and apparently, the deceased were caught unaware. The principle of res ipsa loquitur is straight away attracted as the facts speak for themselves

loud and clear. Besides, the F.I.R. was registered and criminal proceedings were launched against the driver of the tractor. There is nothing on the record to suggest any animosity of the family of the deceased with the appellant so as to warrant any false implication. Besides, the appellant has, on the one hand, pleaded false implication and non-involvement of his tractor in the accident, but, at the same time, has also prayed that the deceased be held guilty of contributory negligence. Both the pleas are contradictory and cannot be reconciled. That apart, the petitions were filed under Section 163-A of the Motor Vehicles Act,1988 and the claimants had only to establish that the death had been caused because of the use of the motor vehicle.

For the foregoing reasons, there is no infirmity in the findings recorded by the Tribunal and the appeals, being devoid of any merit, are dismissed.

(Uma Nath Singh)
Judge

(Mahesh Grover)
Judge

October 17,2006
"SCM"